



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2898

Introduced 2/18/2016, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

765 ILCS 615/15
765 ILCS 615/20
765 ILCS 615/25
765 ILCS 615/30
765 ILCS 615/35
765 ILCS 615/40
765 ILCS 615/45
765 ILCS 615/50
765 ILCS 615/55 rep.

Amends the Condominium and Common Interest Community Ombudsperson Act. Makes numerous technical and substantive changes in provisions concerning: definitions; the Office of the Condominium and Common Interest Community Ombudsperson; the Office's website; the written policy for receiving complaints; requests for assistance; dispute resolution; confidentiality; and reporting requirements. Repeals a Section concerning registration. Effective July 1, 2016.

LRB099 15973 HEP 40290 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Condominium and Common Interest Community
5 Ombudsperson Act is amended by changing Sections 15, 20, 25,
6 30, 35, 40, 45, and 50 as follows:

7 (765 ILCS 615/15)

8 (This Section may contain text from a Public Act with a
9 delayed effective date)

10 (Section scheduled to be repealed on July 1, 2021)

11 Sec. 15. Definitions. As used in this Act:

12 "Association" means a condominium association or common
13 interest community association as defined in this Act.

14 "Board of managers" or "board of directors" means:

15 (1) a common interest community association's board of
16 managers or board of directors, whichever is applicable; or

17 (2) a condominium association's board of managers or
18 board or directors, whichever is applicable.

19 "Common interest community" means a property governed by
20 the Common Interest Community Association Act.

21 "Common interest community association" has the meaning
22 ascribed to it in Section 1-5 of the Common Interest Community
23 Association Act.

1 "Condominium" means a property governed by the Condominium
2 Property Act.

3 "Condominium association" means ~~an association in which~~
4 ~~membership is a condition of ownership or shareholder interest~~
5 ~~of a unit in a condominium, cooperative, townhouse, villa, or~~
6 ~~other residential unit which is part of a residential~~
7 ~~development plan and that is authorized to impose an~~
8 ~~assessment, rents, or other costs that may become a lien on the~~
9 ~~unit or lot, and includes~~ a unit owners' association as defined
10 in subsection (o) of Section 2 of the Condominium Property Act
11 or ~~and~~ a master association as defined in subsection (u) of
12 Section 2 of the Condominium Property Act.

13 "Declaration" has the meaning ascribed to it in:

14 (1) Section 1-5 of the Common Interest Community
15 Association Act; or

16 (2) Section 2 of the Condominium Property Act.

17 "Department" means the Department of Financial and
18 Professional Regulation.

19 "Director" means the Director of the Division of Real
20 Estate ~~Professional Regulation~~.

21 "Division" means the Division of Real Estate ~~Professional~~
22 ~~Regulation~~ within the Department of Financial and Professional
23 Regulation.

24 "Office" means the Office of the Condominium and Common
25 Interest Community Ombudsperson established under Section 20
26 of this Act.

1 "Ombudsperson" means the Condominium and Common Interest
2 Community Ombudsperson named ~~employed~~ under Section 20 of this
3 Act.

4 "Person" includes a natural person, firm, association,
5 organization, partnership, business trust, corporation,
6 limited liability company, or public entity.

7 "Secretary" means the Secretary of the Department of
8 Financial and Professional Regulation.

9 "Unit" means a part of the condominium property or common
10 interest community property designed and intended for any type
11 of independent use.

12 "Unit owner" has the meaning ascribed to it in:

13 (1) subsection (g) of Section 2 of the Condominium
14 Property Act; or

15 (2) Section 1-5 of the Common Interest Community
16 Association Act.

17 (Source: P.A. 98-1135, eff. 7-1-16.)

18 (765 ILCS 615/20)

19 (This Section may contain text from a Public Act with a
20 delayed effective date)

21 (Section scheduled to be repealed on July 1, 2021)

22 Sec. 20. Office of the Condominium and Common Interest
23 Community Ombudsperson.

24 (a) There is created in the Division of Real Estate
25 ~~Professional Regulation~~ within the Department of Financial and

1 Professional Regulation, under the supervision and control of
2 the Secretary, the Office of the Condominium and Common
3 Interest Community Ombudsperson.

4 (b) The Department shall name ~~employ~~ an Ombudsperson and
5 other persons as necessary to discharge the requirements of
6 this Act. The Ombudsperson shall have the powers delegated to
7 him or her by the Department, in addition to the powers set
8 forth in this Act.

9 (c) Neither the Ombudsperson nor the Department shall have
10 any authority to consider matters that may constitute grounds
11 for charges or complaints under the Illinois Human Rights Act
12 or that are properly brought before the Department of Human
13 Rights or the Illinois Human Rights Commission.

14 (d) ~~(e)~~ Information and advice provided by the Ombudsperson
15 has no binding legal effect and is not subject to the
16 ~~rulemaking~~ provisions of the Illinois Administrative Procedure
17 Act.

18 (Source: P.A. 98-1135, eff. 7-1-16.)

19 (765 ILCS 615/25)

20 (This Section may contain text from a Public Act with a
21 delayed effective date)

22 (Section scheduled to be repealed on July 1, 2021)

23 Sec. 25. Training and education. On or before July 1,
24 2018, the Ombudsperson shall offer training, outreach, and
25 educational materials, and may arrange for the offering of

1 courses to unit owners, associations, boards of managers, and
2 boards of directors in subjects relevant to: (i) the operation
3 and management of condominiums and common interest
4 communities; and (ii) the Condominium Property Act and the
5 Common Interest Community Association Act.

6 (Source: P.A. 98-1135, eff. 7-1-16.)

7 (765 ILCS 615/30)

8 (This Section may contain text from a Public Act with a
9 delayed effective date)

10 (Section scheduled to be repealed on July 1, 2021)

11 Sec. 30. Website; toll-free number.

12 (a) The Office shall maintain on the Department's website
13 the following information:

14 (1) the text of this Act, the Condominium Property Act,
15 the Common Community Interest Community Association Act,
16 and any other statute, administrative rule, or regulation
17 that the Ombudsperson determines is relevant to the
18 operation and management of a condominium association or
19 common interest community association;

20 (2) information concerning non-judicial ~~nonjudicial~~
21 resolution of disputes that may arise within a condominium
22 or common interest community, including, but not limited
23 to, alternative dispute resolution programs and contacts
24 for locally-available dispute resolution programs;

25 (3) a description of the services provided by the

1 Ombudsperson and information on how to contact the
2 Ombudsperson for assistance; and

3 (4) any other information that the Ombudsperson
4 determines is useful to unit owners, associations, boards
5 of managers, and boards of directors.

6 (b) The Office may make available during regular business
7 hours a statewide toll-free telephone number to provide
8 information and resources on matters relating to condominium
9 property and common interest community property ~~The Office~~
10 ~~shall make the information described in subsection (a) of this~~
11 ~~Section available in printed form.~~

12 (Source: P.A. 98-1135, eff. 7-1-16.)

13 (765 ILCS 615/35)

14 (This Section may contain text from a Public Act with a
15 delayed effective date)

16 (Section scheduled to be repealed on July 1, 2021)

17 Sec. 35. Written policy for resolving complaints.

18 (a) Each association, except for those outlined in
19 subsection (d) ~~Section (b)~~ of this Section, shall adopt a
20 written policy for resolving complaints made by unit owners.
21 The association shall make the policy available to all unit
22 owners upon request. The policy must include:

23 (1) a sample form on which a unit owner may make a
24 complaint to the association;

25 (2) a description of the process by which complaints

1 shall be delivered to the association;

2 (3) the association's timeline and manner of making
3 final determinations in response to a unit owner's
4 complaint; and

5 (4) a requirement that the final determination made by
6 the association in response to a unit owner's complaint be:

7 (i) made in writing;

8 (ii) made within 90 days ~~a reasonable time~~ after
9 the association received the unit owner's original
10 complaint; and

11 (iii) marked clearly and conspicuously as "final".

12 ~~(b) Common interest community associations exempt from the~~
13 ~~Common Interest Community Association Act are not required to~~
14 ~~have a written policy for resolving complaints.~~

15 (b) ~~(e)~~ No later than 180 days after the effective date of
16 this Act, associations existing on the effective date of this
17 Act, except for those identified in subsection (d) ~~(b)~~ of this
18 Section, must establish and adopt the policy required under
19 this Section.

20 (c) ~~(d)~~ Associations first created after the effective date
21 of this Act, except for those identified in subsection (d) ~~(b)~~
22 of this Section, must establish and adopt the policy required
23 under this Section within 180 days following creation of the
24 association ~~at the time of initial registration as required by~~
25 ~~Section 65 of this Act.~~

26 (d) Common interest community associations exempt from the

1 Common Interest Community Association Act are not required to
2 have a written policy for resolving complaints as required by
3 this Section.

4 ~~(c) A unit owner may not bring a request for assistance~~
5 ~~under Section 40 of this Act for an association's lack of or~~
6 ~~inadequacy of a written policy to resolve complaints, but may~~
7 ~~notify the Department in writing of the association's lack of~~
8 ~~or inadequacy of a written policy. An association that fails to~~
9 ~~comply with this Section is subject to subsection (g) of~~
10 ~~Section 65 of this Act.~~

11 (Source: P.A. 98-1135, eff. 7-1-16.)

12 (765 ILCS 615/40)

13 (This Section may contain text from a Public Act with a
14 delayed effective date)

15 (Section scheduled to be repealed on July 1, 2021)

16 Sec. 40. Dispute resolution ~~Requests for assistance.~~

17 (a) Beginning on July 1, 2019, the declaration or bylaws of
18 a condominium association or common interest community
19 association shall require mediation or arbitration of
20 disputes: (1) in which the matter in controversy has either no
21 specific monetary value or a value of \$10,000 or less,
22 excluding disputes involving the levying and collection of
23 assessments; or (2) that arise out of violations of the
24 declaration, bylaws, or rules and regulations of the
25 condominium or common interest community association. A

1 dispute that is not required to be mediated or arbitrated by an
2 association pursuant to this Section, but that is submitted to
3 mediation or arbitration by agreement of the disputants, is
4 also subject to this Section.

5 (b) The Uniform Arbitration Act shall govern all
6 arbitration proceedings under this Section.

7 (c) The Uniform Mediation Act shall govern all mediation
8 proceedings under this Section.

9 (d) The disputants shall share equally in the costs of
10 mediation or arbitration.

11 (e) A unit owner shall initiate the mediation or
12 arbitration process within 30 days after receiving the
13 association's final adverse decision. ~~unit owners meeting the~~
14 ~~requirements of this Section may make a written request, as~~
15 ~~outlined in subsection (f) of this Section, to the Ombudsperson~~
16 ~~for assistance in resolving a dispute between a unit owner and~~
17 ~~an association that involves a violation of the Condominium~~
18 ~~Property Act or the Common Interest Community Property Act.~~

19 ~~(b) The Ombudsperson shall not accept requests for~~
20 ~~resolutions of disputes with community association managers,~~
21 ~~supervising community association managers, or community~~
22 ~~association management firms, as defined in the Community~~
23 ~~Association Manager Licensing and Disciplinary Act.~~

24 ~~(c) The Ombudsperson shall not accept requests for~~
25 ~~resolutions of disputes for which there is a pending complaint~~
26 ~~filed in any court or administrative tribunal in any~~

1 ~~jurisdiction or for which arbitration or alternative dispute~~
2 ~~resolution is scheduled to occur or has previously occurred.~~

3 (f) Prior to submitting a dispute to mediation or
4 arbitration, a ~~(d) The assistance described in subsection (a)~~
5 ~~of this Section is available only to unit owners. In order for~~
6 ~~a unit owner to receive the assistance from the Ombudsperson~~
7 ~~described in subsection (a) of this Section, the unit owner~~
8 must:

9 (1) owe no outstanding assessments, fees, or funds to
10 the association, ~~unless the assessments, fees, or funds are~~
11 ~~central to the dispute;~~

12 (2) allege a dispute that was initiated, or initially
13 occurred, within the ~~past~~ 2 calendar years preceding ~~of~~ the
14 date of the request;

15 (3) have made a written complaint pursuant to the unit
16 owner's association's complaint policy, as outlined in
17 Section 35, which alleged ~~alleges~~ violations of the
18 Condominium Property Act or the Common Interest Community
19 Association Act; and

20 (4) have received a final and adverse decision from the
21 association. ~~and attach a copy of the association's final~~
22 ~~adverse decision marked "final" to the request to the~~
23 ~~Ombudsperson; and~~

24 ~~(5) have filed the request within 30 days after the~~
25 ~~receipt of the association's final adverse decision.~~

26 ~~(e) A unit owner who has not received a response, marked~~

1 ~~"final", to his or her complaint from the association within a~~
2 ~~reasonable time may request assistance from the Ombudsperson~~
3 ~~pursuant to subsection (a) of this Section if the unit owner~~
4 ~~meets the requirements of items (1), (2), and (3) of subsection~~
5 ~~(d) of this Section. A unit owner may not request assistance~~
6 ~~from the Ombudsperson until at least 90 days after the initial~~
7 ~~written complaint was submitted to the association. The~~
8 ~~Ombudsperson may decline a unit owner's request for assistance~~
9 ~~on the basis that a reasonable time has not yet passed.~~

10 ~~(f) The request for assistance shall be in writing, on~~
11 ~~forms provided by the Office, and include the following:~~

12 ~~(1) the name, address, and contact information of the~~
13 ~~unit owner;~~

14 ~~(2) the name, address, and contact information of the~~
15 ~~association;~~

16 ~~(3) the applicable association governing documents~~
17 ~~unless the absence of governing documents is central to the~~
18 ~~dispute;~~

19 ~~(4) the date of the final adverse decision by the~~
20 ~~association;~~

21 ~~(5) a copy of the association's written complaint~~
22 ~~policy required under Section 35 of this Act;~~

23 ~~(6) a copy of the unit owner's complaint to the~~
24 ~~association with a specific reference to the alleged~~
25 ~~violations of the Condominium Property Act or the Common~~
26 ~~Interest Community Association Act;~~

1 ~~(7) documentation verifying the unit owner's ownership~~
2 ~~of a unit, such as a copy of a recorded deed or other~~
3 ~~document conferring title; and~~

4 ~~(8) a copy of the association's adverse decision marked~~
5 ~~"final", if applicable.~~

6 ~~(g) On receipt of a unit owner's request for assistance~~
7 ~~that the Department determines meets the requirements of this~~
8 ~~Section, the Ombudsperson shall, within the limits of the~~
9 ~~available resources, confer with the interested parties and~~
10 ~~assist in efforts to resolve the dispute by mutual agreement of~~
11 ~~the parties.~~

12 ~~(h) The Ombudsperson shall assist only opposing parties who~~
13 ~~mutually agree to participate in dispute resolution.~~

14 ~~(i) A unit owner is limited to one request for assistance~~
15 ~~per dispute. The meaning of dispute is to be broadly~~
16 ~~interpreted by the Department.~~

17 ~~(j) The Department has the authority to determine whether~~
18 ~~or not a final decision is adverse under paragraph (4) of~~
19 ~~subsection (d) of this Section.~~

20 ~~(k) The Department shall establish rules describing the~~
21 ~~time limit, method, and manner for dispute resolution.~~

22 ~~(l) A request under the Freedom of Information Act for~~
23 ~~information does not constitute a request for assistance under~~
24 ~~this Section.~~

25 (Source: P.A. 98-1135, eff. 7-1-16.)

1 (765 ILCS 615/45)

2 (This Section may contain text from a Public Act with a
3 delayed effective date)

4 (Section scheduled to be repealed on July 1, 2021)

5 Sec. 45. Confidentiality.

6 (a) All information collected by the Department in the
7 course of addressing a request for information ~~assistance~~
8 pursuant to this Act ~~Section 40~~ shall be maintained for the
9 confidential use of the Department and shall not be disclosed.
10 The Department shall not disclose the information to anyone
11 other than law enforcement officials or regulatory agencies
12 that have an appropriate regulatory interest as determined by
13 the Secretary. Information and documents disclosed to a
14 federal, State, county, or local law enforcement agency shall
15 not be disclosed by that agency for any purpose to any other
16 agency or person.

17 (b) A request for information made to the Department or the
18 Ombudsperson under this Act does not constitute a request under
19 the Freedom of Information Act.

20 (Source: P.A. 98-1135, eff. 7-1-16.)

21 (765 ILCS 615/50)

22 (This Section may contain text from a Public Act with a
23 delayed effective date)

24 (Section scheduled to be repealed on July 1, 2021)

25 Sec. 50. Reports.

1 (a) The Department shall submit an annual written report on
2 the activities of the Office to the General Assembly, no later
3 than October 1 of each year, with the initial report being due
4 October 1, 2020. The report shall include all of the following:

5 (1) annual workload and performance data, including
6 (i) the number of requests for information; (ii) training,
7 education, or other information provided; (iii) ~~assistance~~
8 ~~received,~~ the manner in which education and training was
9 conducted; ~~requests were or were not resolved~~ and (iv) the
10 staff time required to provide the training, education, or
11 other information ~~resolve the requests~~. For each category
12 of data, the report shall provide subtotals based on the
13 type of question or dispute involved in the request; and

14 (2) where relevant information is available, analysis
15 of the most common and serious types of concerns ~~disputes~~
16 within condominiums and common interest communities, along
17 with any recommendations for statutory reform to reduce the
18 frequency or severity of those disputes.

19 (Source: P.A. 98-1135, eff. 7-1-16.)

20 (765 ILCS 615/55 rep.)

21 Section 10. The Condominium and Common Interest Community
22 Ombudsperson Act is amended by repealing Section 55.

23 Section 99. Effective date. This Act takes effect July 1,
24 2016.